

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated January 11, 2007 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully maintains the traversal of the §103(a) rejection because the asserted references, alone or in combination, do not teach each of the claimed limitations. For example, neither of the asserted references teaches encrypting cell-specific location information on at least one cell of a mobile communications network. Contrary to the assertion at pages 7-8 of the Office Action, Kimoto does not teach obtaining cell-specific location information. Rather, as identified in the last line on page 7, the cited portion of Kimoto discusses position information of a mobile station. The position of a mobile station in a communication cell does not correspond to the claimed cell-specific location information. *See, e.g.*, the instant Specification at page 1, lines 17-31. Thus, Kimoto has not been shown to correspond to any of the limitations directed to cell-specific location information.

Moreover, the Examiner acknowledges that Kimoto fails to teach encrypting cell-specific location information on at least one cell of the mobile communication network, as claimed. The reliance upon the teachings of Itabashi to overcome this deficiency in Kimoto is misplaced as Itabashi also fails to teach the claimed encrypting of cell-specific location information on at least one cell. The cited portion at paragraph [0070] of Itabashi merely states that a communication terminal may encipher information transmitted to an information center via a base station and network. This information may include identification information of a cellular telephone [0071] or audio information [0064]. Such information is not, nor has the Examiner asserted that such information is, cell-specific location information, as claimed. Thus, neither of the cited references teaches the claimed encrypting of cell-specific location information. As neither Kimoto nor Itabashi teaches such limitations, any combination of these teachings must also fail to correspond to such limitations. Since each of the independent claims includes such limitations and

correspondence to each of the claimed limitations has not been presented, the §103(a) rejection is improper and should not be maintained. Applicant accordingly requests that the rejection be withdrawn.

In addition, Kimoto does not teach determining substantially the geographical coverage area of a cell, as claimed. At column 7, lines 10-12, Kimoto teaches that a mobile terminal has a position information detecting unit for “detecting position information of the mobile terminal as position identification information of the radio base station. . .” (emphasis added). While Kimoto teaches at column 17, lines 44-45 that position identification information of a radio base station identifies a communication area, there is no indication that such communication area is the entire service area of the radio base station. Rather Kimoto teaches detecting the position information of the mobile terminal in relation to a general communication area. There is no indication that this general communication area is more than a partial portion of the area serviced by the base station such that the substantial coverage area of a cell would be determined. As the Examiner has not asserted that, nor does Applicant recognize where, Itabashi overcomes this deficiency in the teachings of Kimoto, the asserted combination of references fails to at least teach determining substantially the geographical coverage area of the cell, as claimed.

In view of the above, Kimoto is not directed to determining cell-specific location information or the geographical coverage area of a cell. As Kimoto does not teach at least cell-specific location information, Kimoto cannot teach storing or interlinking such information. Without a presentation of correspondence to each of the claimed limitations, the §103(a) rejection is improper, and Applicant accordingly requests that it be withdrawn.

Dependent Claims 2-6, 8-13, and 16-20 depend from independent Claims 1, 7, and 14, respectively. Each of these dependent claims also stands rejected under 35 U.S.C. §103(a) as being unpatentable over the above-discussed combination of Kimoto and Itabashi. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1, 7 and 14. These dependent

claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2-6, 8-13 and 16-20 are also allowable over the asserted combination of Kimoto and Itabashi.

With particular respect to dependent Claims 2 and 8, Applicant traverses because the asserted combination of references has not been shown to teach each of the claimed limitations. The cited portion of Kimoto makes no reference to a data connection from a service provider external to the mobile communication network to the database. Instead, Kimoto merely teaches communication between an information center and mobile terminals which form a mobile communicating system (column 16, lines 59-60). As Itabashi has also not been shown to teach these limitations, the §103(a) rejection of dependent Claims 2 and 8 is also improper. Applicant accordingly requests that the rejection be withdrawn.

In addition to having to show that the cited combination of references teaches or suggests all of the claim limitations, the Examiner must show evidence of motivation to combine these references. Applicant respectfully maintains that this requirement has not been met.

The Office Action proposes modifying Kimoto’s mobile communicating system to include Itabashi’s general teachings of encryption in order “to provide an information providing system which can prevent verification information or the like being observed or stolen at predetermined settlement locations, prevent unauthorized use, and allow settlement to be performed with a high degree of safety.” However, this is not evidence of motivation to combine the asserted teachings but rather, is a generalized statement of what is asserted as being taught by Itabashi. Also, Kimoto is directed to a system providing map information deduced from position information of a mobile terminal by transferring a base station ID. *See, e.g.*, column 35, lines 11-26. Kimoto makes no reference to any sort of settlement or predetermined settlement locations. No evidence has been provided that a

skilled artisan would have attempted to introduce the asserted encryption method of Itabashi to the teachings of Kimoto.

Objective teaching leading to the asserted combination must be identified. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Since neither Kimoto nor Itabashi teaches any encryption of cell-specific location information, as discussed above, it is respectfully submitted that the teachings of Kimoto and Itabashi would have provided insufficient guidance for a skilled artisan having these references before him/her to make the combination suggested by the Examiner. Applicant respectfully asserts that the Examiner's conclusion of obviousness is, instead, based on improper hindsight reasoning using knowledge gleaned only from Applicant's disclosure. Without a suggestion of the desirability of "the combination," a combination of such references is made in hindsight. It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown and that this evidence be "clear and particular." Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence.

There is nothing in the references or what is in the ordinary skill in the art that would lead to combining the cited references as asserted – rather, the proffered motivation is made in hindsight. For at least the aforementioned reasons, Applicant respectfully submits that a case of *prima facie* obviousness has not been satisfied for lack of a presentation of evidence of motivation to combine the cited references. Applicant accordingly requests that the rejection be withdrawn.

Applicant also maintains the traversal of the §112 rejection of Claim 21 because the claim is not a "single means" claim. As stated in the cited portion of the MPEP, a single means claim is a claim (typically written in means-plus-function language) where a recited means is not claimed in combination with another means element or where the claim depends upon a recited property and the claim does not limit the structures claimed for achieving that property. The assertion that "Claim 21 specifically recites a network element, which does not appear in combination with another elements" misinterprets the definition of a "single means claim". Such an interpretation would preclude a claim from

being directed to a single device, which is allowable as a claim directed to an item of manufacture (35 U.S.C. §101). As pointed out previously, Claim 21 is not written in “means plus function” format and includes multiple properties. The Specification describes the limitations of Claim 21 at least at page 6, lines 1-7 and 21-25; page 12, lines 33-36; and in Claim 7. Moreover, Applicant notes that functional language in claims is permitted. Thus, the rejection appears to be based on an improper interpretation of the definition of a “single means claim” and Applicant requests that it be withdrawn.

With respect to the §112, second paragraph, rejection of Claim 22, Claim 22 has been amended to indicate that the unit comprises a computer readable medium having a program for encoding cell-specific location information and delivering the encrypted cell identities. These changes are consistent with the discussion in the instant Specification at page 13, lines 15-21 and therefore do not introduce new matter. Moreover, Claim 22 would not be a single means claim for the same reasons discussed above in connection with Claim 21.

Applicant has also amended Claim 14 to include the limitations of dependent Claim 15. As these limitations were previously present in a dependent claim, the changes do not introduce new matter. The changes were not made in response to the pending rejections and Claim 14 is believed to be patentable over the asserted references for the reasons discussed above.

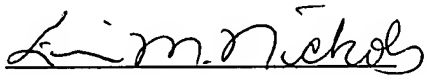
It should be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner’s characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NSN.002.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: June 11, 2007

By: 

Erin M. Nichols
Reg. No. 57,125